



Election #8661
C. Burns
01/14/04
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: McDermott et al

EXAMINER: Camby, Richard

SERIAL NO.: 09/804,915

GROUP: 2798

FILED: March 13, 2001

CASE NO.: NSR-0101

ENTITLED: "Virtual Odometer System and Method"

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Colorado Springs, CO 80903

December 9, 2003

Election

Honorable Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
DEC 29 2003
GROUP 3600

Sir:

Responsive to the Office Action dated November 26, 2003, the applicant hereby responds as follows:

Remarks

Claims 1-20 are at issue. Claims 1-20 are subject to a restrict requirement. The applicants select the species defined by Figure 2 with traverse.

The Examiner suggests that Figure 2 and Figure 3 are distinct species, but a careful reading of the specification makes it clear that the GPS system is one embodiment of how the invention measures speed. For instance, at page 4, lines 19-20, of the specification in talking about Figure 2 it states that "in another embodiment, the system receives the speed data from a global positioning system receiver." So clearly Figure 3 is just an embodiment, of Figure 2. The restriction requirement should be withdrawn.

In addition, the applicants challenge the Examiner to actually define claims that fall under Figure 3 but are not covered by Figure 2. There is no logical way to divide the claims into the two groups suggested by the Examiner.